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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CIVIL JURISDICTION

CIVIL APPLICATION NO. 3801 OF 2007
IN
FIRST APPEAL NO.1256 OF 2007

CHAMPAKLAL PRATAP CHAND JAIN ..APPLICANT

V/S.

NEW INDIA ASSURANCE CO. LTD. & OTHERS ..RESPONDENTS

Ms. Rajani Pathak, Advocate for the Applicant
Mr.N.M.Godbole holding for Mr. Dange for Respondents

CORAM : ANOOP V. MOHTA,J.
DATED : 17th September, 2007

P.C.

This is an application filed by the original claimant who suffered injury of several fractures that resulted into permanent partial disability and still he is suffering because of said accident.

2. The decree is against opponent no.1 and 2 jointly and severally. The applicant infact has filed a recovery proceeding for amount of Rs.8,42,158/-. The Appellant Insurance company has challenged the said order. This Court while passing the order on 9-4-2007 granted ad-interim relief in terms of prayer clause (b) subject to the appellant's depositing in the trial Court the entire amount within eight weeks. However, liberty has been granted to the Respondents to withdraw 50% of the amount so deposited after furnishing security to the satisfaction of the trial Court.

3. The averments are that the applicant need to spent huge money so far as medical expenses and other. The trial Court, therefore, apart from the grounds mentioned, awarded the said amount but till this date except Rs. 25,000/-, as referred, the applicant has not received any other amount.

4. Because of accident as applicant suffered four fractures and hampered his income, I am of the view that at this stage of the proceedings, applicant is entitled to withdraw Rs. 2 lacs without security and rest of the amount as directed by order dated 9-4-2007 subject to furnishing security to the satisfaction of the trial Court.

5. Admittedly, there is no challenge made by opponent no. 2, the owner of the vehicle.

6. Resultantly, the application is allowed to the extent as recorded above. The appeal is expedited. Appellant to file private paper book.

7. The application is disposed of accordingly.

[ANOOP V. MOHTA,J.]